

Staying in Compliance During Periods of Drought

Federal Energy Regulatory Commission
Washington, D.C.



Objective

- ▶ Explore methods for processing requests to amend project operations during periods when inflow is less than the historical average, while balancing the needs of the public and environmental resources.

Existing Operational Flexibility

- Many licenses issued since the mid 1980s contain temporary operation modification provisions.
- The modification provisions allow for operation changes for short periods upon agreement with the consulted entities identified in the license article.
- The language of this provision may be as follows:
..."the (operation requirement) may be temporarily modified for short periods upon agreement between the licensee, and the (identified consulted entity)."

Existing Operational Flexibility cont...

- The Commission has defined short periods as a few weeks or less to allow some degree of flexibility for situations that require operation changes.
- The licensee is responsible for documenting the required agreement(s) with the consulted entities.

Existing Operational Flexibility cont...

- Documentation may consist of telephone conversation records.
- Agreement means that ALL required entities to be consulted must agree to the change prior to implementing the change.
- The licensee should also contact the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to determine if listed species protected under the Endangered Species Act are present.

License Amendment

Minor Administrative Change



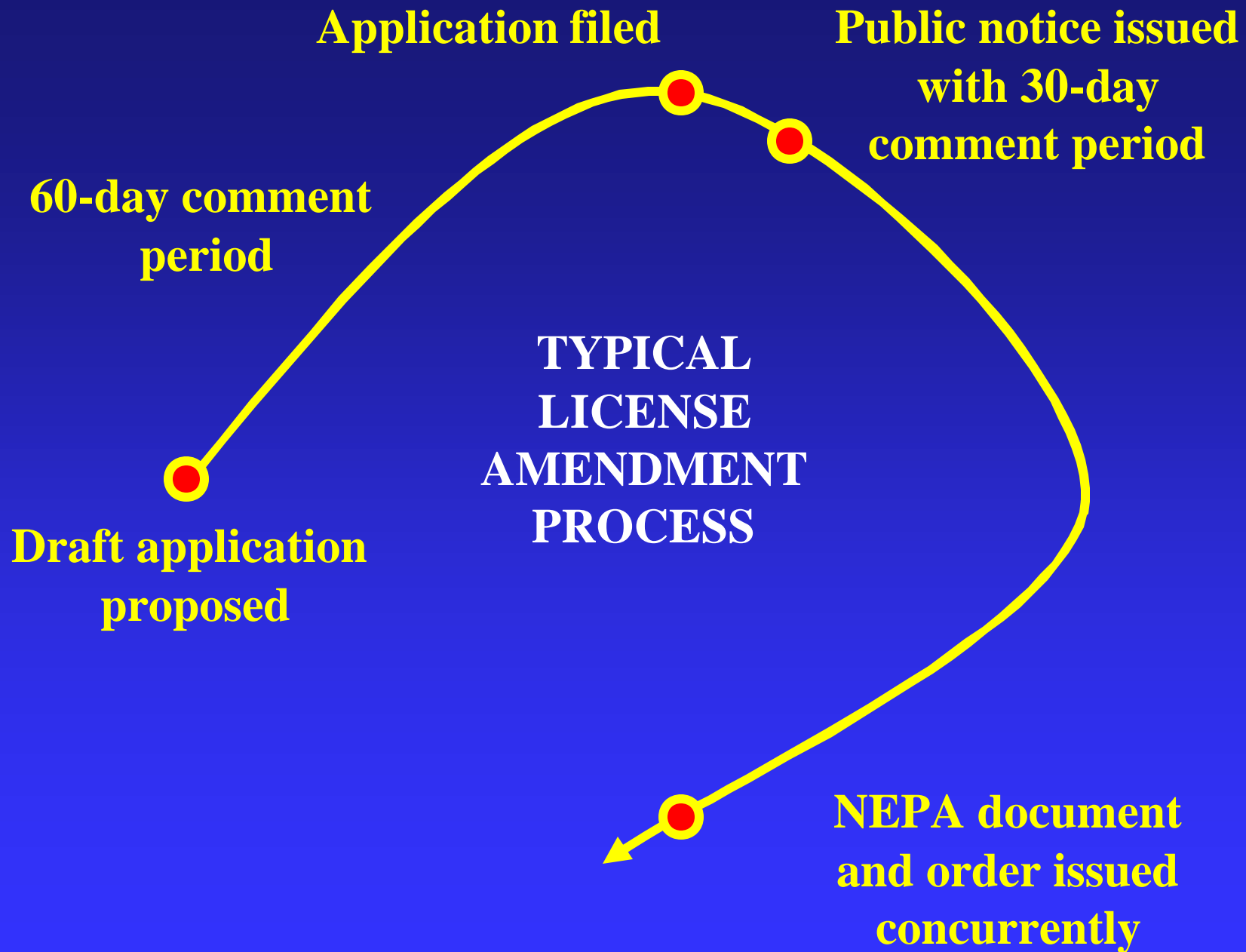
Material Change to Project
Structure/Operation

Minor Administrative Change

- Add standard language to the license to allow for short term deviations from license requirements with agreement from appropriate resource agencies

Material Change to Project Operation

- Temporary variance from operating requirements (reservoir elevation, minimum flows, etc.)
- Long-term change to license requirements – may be over several seasons or permanent



Engage Commission Staff Early

- Staff will:
 - Assist in delineating scope of environmental review
 - Participate in conferences and meetings
 - Help identify stakeholder groups

Comprehensively Involve Stakeholder Groups

- Resource agencies
- Native-American Tribes
- Water quality certifying agencies
- Land management agencies
- Non-governmental organizations
- Affected citizens

Amendment Application Should Include:

- Detailed explanation of request, justification and supporting documentation
- Documentation of consultation with stakeholder groups, including comment letters received
- List of names and addresses of resource agencies, tribes, and other stakeholder groups who have responsibility for or interest in the resources impacted by the proposal
- Licensee's response to comments received concerning the draft application

Suggestions for Expeditionously Processing License Amendments

- Request waiver of 60-day pre-filing consultation requirement
- Evidence of pre-filing consultation may include telephone conversation records and meeting notes
- Reduce the comment period for public notices